

OFFICE OF
Utah County Attorney

5/049/011

(801) 370-8001 Civil Division
(801) 370-8026 Criminal Division
(801) 370-8014 Investigations
(801) 370-8051 FAX

Kay Bryson, County Attorney
Guy R. Burningham, Civil Division Chief
Craig R. Madsen, Criminal Division Chief
Doug Witney, Chief Investigator

100 East Center Street
Suite 2100
Provo, Utah 84606

March 30, 1992

Mr. Wayne Hedberg
Utah State Division of Oil, Gas and Mining
355 West North Temple
#3 Triad, Suite 350
Salt Lake City, Utah 84180-1203

Re: Larson Limestone

Dear Wayne:

Enclosed please find copies of the sections of the Utah County Zoning Ordinance dealing with the bonding procedures for open pit and surface mining operations.

I appreciate talking to you about the Larson Limestone matter and the information from you indicating that state regulations are not intended to supersede local regulations of the surface mining industry.

Thank you for your assistance.

Very truly yours,

E. Kent Sundberg
E. Kent Sundberg
Deputy Utah County Attorney

EKS:alm

Enclosures

c: Buck Rose

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DIVISION OF
OIL GAS & MINING

In all zones other than the Flood Plain Overlay Zone, the following regulations shall apply.

- A. No dwelling or other building used for human habitation shall be constructed within one hundred (100) feet from the banks of a stream, gully, or other flood channel, except after a permit therefor has been authorized by the ordinance and issued by the Zoning Administrator. The Board of Adjustment shall not authorize a permit therefor unless it can be shown that adequate measures will be taken to protect both the building and other property, which may be affected by the construction of said building, from damage due to floods.
- B. No use or structure (except flood control works or irrigation diversion dams) shall be permitted in any flood channel if such use or structure will adversely affect normal flow, will increase flooding of land above or below the property, will increase erosion within or adjoining the flood channel, will cause diversion of flood waters in a manner more likely to create damage than does flow in a normal course, will increase peak flows or velocities in a manner likely to add to property damage or hazards to life, or will increase amounts of damaging materials (including those likely to be injurious to health) which might be carried downstream in floods.

3-27: EXPOSED SLOPES TO BE LESS THAN THE CRITICAL ANGLE OF REPOSE

No cut or fill slope that is created as a part of the constructing of any roadway leading to an electric transmission tower, street, road, driveway, railroad bed, or construction way of a water or gas transmission line, or similar travel or access way, whether publicly or privately owned, shall exceed the critical angle of repose unless a special exception is granted by the Board of Adjustment according to the terms of Section 7-21 of this ordinance. Such special exception shall not be given until the owners can show that they have adopted all practical measures to reduce the slopes to less than the critical angle of repose by selecting an alternate location, by planting the slopes with vegetative material, by covering the slopes with burlap, wire mesh, or other material which will have the effect of preventing the soil from moving under the force of gravity until vegetative material becomes established. Where terrain leading to an electric transmission tower will not permit the installation of such tower without the slopes of construction roads exceeding the critical angle of repose, air transport or other methods must be used in lieu of such construction roads.

3-28: OPEN PIT EXTRACTION OF EARTH PRODUCTS

A. INTENT

The intent and purpose of this section is to provide for the extraction of earth products using surface mining methods while protecting the rights of neighboring property owners and while protecting public facilities, such as roads, from unusual wear or damage.

B. SCOPE

The provisions of this section shall apply to all sites where sand, gravel, clay, topsoil, or rock will be extracted by an open pit method, provided,

however, sites having a valid, current permit at the time of passage of this ordinance shall be completed according to the terms of such permit and any bonding agreements appurtenant thereto.

C. CONDITIONS

The Zoning Administrator shall issue a permit for open pit operations only when all of the following are met:

1. The site lies in a zone where the extraction of the sand, gravel, clay, topsoil or rock by open pit methods is a permitted use, or it has been granted a special exception for such use by the Board of Adjustment in a zone where such special exceptions are permitted;
2. The applicant shall present a site plan that shows the topography, utilities, roads and structures on the site at both the pre-permit stage and the stage after completing the excavation and rehabilitation of the pit.
3. The operable portion of the pit or site of extraction shall be an area no larger than seven (7) acres at any one time. The pit, or portions of it, shall be closed, rehabilitated, and approved by the zoning administrator as meeting the standards of this ordinance before further areas are excavated.
Exception: in the M&G-1 and I-1 Zones, the Board of Adjustment may approve as a special exception to this ordinance, according to the provisions of Section 7-21 of this ordinance, an area larger than 7 acres if it finds that there will be no derogation of the neighboring property values nor diminishment of the usefulness of neighboring lands.
4. The standards for rehabilitation of the site shall be: (a) the site shall be smoothed and evenly contoured; (b) no undrained depression, pond, or intermittent lake shall exist on the floor of the rehabilitated site; (c) no slope shall be steeper than the critical angle of repose (eg. 33 degrees for gravel deposits); (d) all areas shall be covered with a one-inch or thicker layer of topsoil and reseeded with plant material having a sufficient concentration to screen at least 25% of the exposed surface from view.
5. Dust generated in the extraction and processing of the earth products shall be kept under control by the operator and contained on-site by paving main roads in the pit, wetting extraction areas and loaded trucks, placing birms or landscape screening for protection from the prevailing winds and other suitable measures.
6. All cuts and fills shall be set back from the property boundary or approved extraction site a distance of at least five (5) feet.
7. The applicant shall present an off-site plan of any local public streets which loaded trucks will use in gaining access to state highways and arterial streets. The pit operator shall be liable for any severe damage his operation causes to such local roads.

8. The pit and/or extraction operation does not constitute a nuisance as determined according to chapter 12 [Nuisances] of the Utah County Code.

D. BOND

1. A cash or surety bond in the amount set by the Legislative Body, but not less than \$1600 per acre, shall be posted by the applicant to guarantee compliance with this section and the nuisance provisions of the Utah County Code.
2. The bond shall be accompanied by an agreement between the county and the applicant (plus the property owner if the latter is not also the applicant) wherein the county agrees to return the bond at the completion of excavation if the standards of this section have been met, and the applicant and property owner agree that the bond shall be forfeited in the event of noncompliance and permit the county to enter the property to close and rehabilitate the pit.
3. Such bond shall be forfeited if rehabilitation has not been completed within one (1) year of cessation of operations in the pit. The "trigger" for such forfeiture shall be any 365-day unit of time in which no material is extracted, or when there is no current business license in effect, or when there is no current zoning compliance permit in effect.
4. Notwithstanding the forfeiture of the bond, the applicant shall retain responsibility to fully comply with this ordinance and the terms of the permits issued thereunder.

E. PERMITS

In addition to the business licenses and building (or grading) permits required elsewhere in county ordinances, any open pit operation shall be required to have a current zoning compliance permit. No zoning compliance permit for an open pit operation shall have a period of validity past December 31 of each calendar year, but the permit shall be automatically renewed if the pit is found to be in compliance with the standards of this ordinance. The zoning administrator, with the advice of the County Surveyor, shall determine if such compliance exists.